



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

**COPY MAILED**

**MAR 17 2006**

**OFFICE OF PETITIONS**

Docket Clerk  
P.O. Drawer 800889  
Dallas, TX 75380

In re Application of :  
Schachar : DECISION ON PETITION  
Application No. 09/940,722 :  
Filed: August 27, 2001 :  
Atty. Dkt. No.: PRES06-00217 :

This decision is in response to the petition under 37 CFR 1.181 filed February 16, 2006.

This application was held abandoned June 8, 2005, for failure to timely file a proper response to the Office communication mailed May 7, 2005. The Office communication set a one month shortened statutory period for reply. Notice of Abandonment was mailed December 19, 2005.

Petitioner argues that the Office communication mailed May 7, 2005 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the Office communication would have been entered had it been received along with a statement from

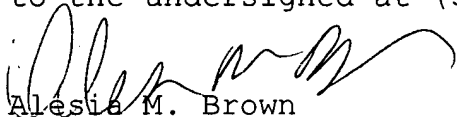
practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being directed to Technology Center 3700 for consideration of the response to the Office communication that was submitted March 1, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions